IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.17929 of 2006
Date of decision: 14.11.2006

M/s Super Overseas Inc. and another.

---Petitioners.

Vs.

Govt. of India & others.

-----Respondents.

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE RAJESH BINDAL

Present: Mr. Akshay Bhan, Advocate
for the petitioner.

ORDER:

This writ petition has been filed challenging order dated 03.11.2006 (Annexure P-44), confiscating goods imported by the petitioner holding the same to be non-edible grade vanaspati. Though the case of the petitioner is that the imported goods were edible grade vanaspati which was supported by laboratory reports, but the appropriate authority rejected this plea relying upon a contrary laboratory report.

Admittedly, the impugned order is appeallable to the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) (for short, “the Tribunal)”. Learned counsel for the petitioners submitted that the reason for filing a writ petition in this Court instead of taking usual remedy of appeal was that the goods will expire on 30.11.2006 and taking recourse to the remedy of appeal will render remedies of the petitioners futile.

Even without issuing formal notice, we have also heard learned counsel for the respondents, Mr. M.S. Guglani, Advocate, who is present in the Court had instructions to make submissions on preliminary issues and who had

earlier represented the respondents in the earlier round of litigation between the parties at a stage prior to taking of impugned decision.

Having regard to the facts and circumstances of the case, we are of the view that the petitioners ought to be relegated to their remedy of appeal. Learned counsel for the respondents has no objection if a direction is given for expediting the hearing of the matter, so that the same is not rendered infructuous.

We, accordingly, direct that the Tribunal may give priority in hearing of the appeal, if filed. Learned counsel for the petitioners submits that appeal will be filed within two days from today and advance copy of the paper-book will be given to the departmental representative before the Tribunal. Learned counsel for the respondents submits that the respondents will instruct their representatives before the Tribunal to put in appearance and assist the Tribunal at the earliest. The Tribunal will hear the matter as early as possible and if possible, within one week from the filing of the appeal.

The writ petition is disposed of accordingly.

A copy of this order be given to the learned counsel for the parties under the signatures of the Court Secretary.

(ADARSH KUMAR GOEL)
JUDGE

November 14, 2006 **(RAJESH BINDAL)**
ashwani **JUDGE**